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| 10/828,381 | 04/20/2004 | David Lawrence Phillips | 16599-US | 4821 |
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| | | | EXAMINER | |
| | | | TORRES, ALICIA M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3671 | |

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/828,381

Applicant(s)

PHILLIPS, DAVID LAWRENCE

Examiner

Alicia M. Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7-13, 15-19 and 22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3, 5, 7-13, 15-19 and 22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(d).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 19 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification never discloses wherein the cutting units are less than 18 inches.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5, 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronning 1,957,079 in view of Akgulian et al. 3,613,337 and Rhoades et al. 2,924,928.

Ronning discloses an apparatus comprising:

- a chassis having left and right rails (38, 56)
- a pair of front wheels (15)

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- a pair of rear wheels (12) having a track width and diameter greater than that of the front wheels (15)
- an operator module (13)
- portions of the left and right rails (38, 56) extending from under the operator module (13) to define an uncovered area in front of the operator module (13) at least 5 square feet in area between the rails (38, 56) near the front of the chassis
- a first row of two cutting units (A, B) mounted to horizontally extending arms in front of the pair of front wheels (15)
- a second row of three cutting units (C, D, E)
- a center cutting unit (D) in the second row having a width less than the distance between the left and right rails (38, 56) and is positioned entirely in the uncovered area so that the cutting unit (D) is visible from the operator module (13)
- the other two cutting units (C, E) in the second row mounted to horizontally extending arms, as per claims 1, 8 and 9
- wherein the cutting units (A-E) are reels rotating on horizontal axes, as per claim 2
- an internal combustion engine (11), as per claims 5.

However, Ronning fails to disclose wherein the horizontally extending arms are lift arms; wherein the lift arms pivot to lift the two cutting units to a transport position inside the track width of the pair of rear wheels; and

wherein the second row of cutting units are behind the pair of front wheels; and

wherein the power supply is at least partially behind the rear wheels, as per claim 1; and

wherein the rear wheels are steered, as per claim 7; and

wherein the cutting units are non-pivotable through a vertical axis, as per claim 10.

Akgulian '337 discloses a similar device wherein the horizontally extending arms () are lift arms;

wherein the lift arms (42) pivot to lift the two cutting units (29, 30) to a transport position inside the track width of the pair of rear wheels (14); and

wherein the second row of cutting units (29, 30) are behind the pair of front wheels (16), as per claim 1; and

wherein the rear wheels (14) are steered, as per claim 7; and

wherein the cutting units (27-30) are non-pivotable through a vertical axis, as per claim 10.

Rhoades discloses a mower having an engine (20) mounted at least partially behind the rear wheels (8, 9).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the lift arms of Akgulian on the device of Ronning in order to provide a transportation configuration.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rear mounted engine of Rhoades in the mower of Ronning in order to prevent the driver from being exposed to the engine's heat and fumes.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ronning, Akgulian '337 and Rhoades as applied to claim 1 above, and further in view of Bednar et al. 6,336,312.

The device is disclosed as applied to claim 1 above. However, the combination fails to

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disclose wherein the cutting units are rotary blades rotating on generally vertical axes.

Bednar discloses a similar gang mower wherein the cutting units (34) are rotary blades rotating on generally vertical axes.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rotary mowers of Bednar on the gang mower of Ronning, Akgulian and Rhoades in order to require less maintenance.

5. Claims 11, 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian et al. in view of Ronning.

Akgulian discloses an apparatus comprising:

- A ladder-type chassis (10) having left and right rails
- Front wheels (12)
- A first row of two cutting units (11) mounted to pivotable arms (13) in front of the front wheels (12)
- A second row of three cutting units (11) mounted to pivotable arms (16, 44) behind the front wheels (12)
- An operator module (not shown) mounted behind the second row of cutting units (11)
- Driven and steered rear wheels (unnumbered)
- The pivotable arms (16, 44) of the second row used for raising and rotating two cutting units (11) to a full, vertical position within the widest track of the wheels (12)
- A power supply (17) mounted behind the operator module and rear wheels.

However, Akgulian fails to disclose wherein a center cutting unit in the second row is

positioned between and has a width less than the distance between the left and right rails and is visible from the operator module;

A portion of the rails under the operator module and power supply;

A front portion of the rails being uncovered.

Running discloses a similar apparatus wherein a center cutting unit (D) in the second row is positioned between and has a width less than the distance between the left and right rails (38, 56) and is visible from the operator module (13);

A portion of the rails under the operator module (13) and power supply (11)

A front portion of the rails (38, 56) being uncovered.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the positioning of Ronning on the device of Akgulian in order to prevent the possibility that any tractor supporting wheels will press down the grass below reach of the cutting knives.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian and Ronning in view of Worthington 1,330,293, as cited by Applicant.

The device is disclosed as applied above. However, Akgulian fails to disclose the parallel rails being farther apart at the front.

Worthington discloses a similar apparatus wherein the rails (1) are closer at the front.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rail structure of Worthington on the apparatus of Akgulian and Worthington in order to unite the cutting units.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian and running in view of Hornung 6,684,616

The device is disclosed as applied above. However, the combination fails to disclose a hood having a screened air intake over the power supply.

Hornung discloses a similar device including a hood (20) over the power supply (11) having a screened air intake (24).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the hood of Hornung on the device of Akgulian and Ronning in order to cool the engine.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian and Ronning in view of Gerzanich 4,341,059.

The device is disclosed as applied above. However, the combination fails to disclose wherein the pair of front wheels are non-driven and non-steered.

Gerzanich discloses a similar vehicle wherein the pair of front wheels are non-driven and non-steered.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the non-powered front wheels of Gerzanich on the device of Akgulian and Ronning in order to provide adequate traction force to the powered wheels.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian and Ronning in view of Speiser 3,410,063.

The device is disclosed as applied above. However, the combination fails to disclose wherein the operator module is pivotably mounted to the chassis.

Speiser discloses a similar device wherein the operator module (140) is pivotably mounted to the chassis (103).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the pivotable operator module of Speiser on the device of Akgulian and Ronning in order to comfortably accommodate deferent users.

10. Claims 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronning in view of Rhoades.

Ronning discloses an apparatus comprising:

A chassis being partially covered by an operator module (13) and a power supply (11) and having a pair of rails (38, 56, see Figure 5);

Front (15) and rear wheels (12), one pair being steerable and driven by the power supply (11), the rear wheels (12) have a greater track width than the front (15) pair of wheels;

A first row of two cutting units (A, B) less than 18 inches, in front of a second row of three cutting units (C, D, E) less than 18 inches, the cutting units being mounted on arms (75) extending laterally from the chassis and being uncovered by the operator module (13) and power supply (11);

A center cutting unit (D) is entirely between the rails (38, 56) and is visible from the operator module (13);

The cutting units (A-E) are within the track width of the rear wheels (12) in a transporting position.

However, Ronning fails to disclose wherein the operator module is in front of the power supply and the power supply is primarily behind the rear wheels.

Rhoades discloses a mower having an engine (20) mounted at least partially behind the rear wheels (8, 9).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rear mounted engine of Rhoades in the mower of Ronning in order to prevent the driver from being exposed to the engine's heat and fumes.

Response to Arguments

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.


Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
July 9, 2006